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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/580,518

05/24/2006

Atsushi Tanno

4386.75202

2343

24978 7590 08/20/2009

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CHICAGO, IL 60606

EXAMINER

JOHNSTONE, ADRIENNE C

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

08/20/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,518	Applicant(s) TANNO ET AL.	
	Examiner Adrienne C. Johnstone	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-15 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060524</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicants' amendment filed June 3, 2009 has changed the conditions for restriction. A new species election requirement follows.

2. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

a) a low noise pneumatic tire whose strip-shaped sound absorbent is formed of at least two kinds of porous materials whose sound absorption characteristics with respect to frequencies are different from one another, the strip-shaped sound absorbent having a mixed composition of at least two kinds of sound absorbing portions which are formed of the at least two kinds of porous materials whose sound absorption characteristics with respect to frequencies are different from one another;

b) a low noise pneumatic tire whose strip-shaped sound absorbent is formed of at least two kinds of porous materials whose sound absorption characteristics with respect to frequencies are different from one another, the strip-shaped sound absorbent extending around an entire circumference of the inner surface of the tread of the tire and being formed of a first porous material whose sound absorbing coefficient at a frequency of 200Hz is not less than 20% and a second porous material whose sound absorbing coefficient at a frequency of 1 kHz is not less than 25%; and

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c) a low noise pneumatic tire whose strip-shaped sound absorbent is formed of at least two kinds of porous materials whose sound absorption characteristics with respect to frequencies are different from one another, the strip-shaped sound absorbent extending around an entire circumference of the inner surface of the tread of the tire and being formed of a first porous material whose sound absorbing coefficient at a frequency of 200Hz is not less than 20%, a second porous material whose sound absorbing coefficient at a frequency of 1 kHz is not less than 25%, and a third porous material whose sound absorbing coefficient at a frequency of 1.5 kHz is not less than 30%.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

3. The claims are deemed to correspond to the species listed above in the following manner:

- a) claims 1-5;
- b) claims 1 and 6-10;
- c) claims 1 and 11-15.

The following claim(s) are generic: claim 1.

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4. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the subject matter of generic claim 1 does not distinguish over the prior art, as evidenced by Japanese Patent Application 2003-226104 A cited by applicants (equivalent to Tanno (7,140,412 B2) in view of Bschorr (4,399,851: embodiment of Figure 5, different densities of foam = different sound absorption characteristics with respect to frequencies, specification p. 8 lines 5-18), European Patent Application 1 253 025 A2 (embodiment of Figure 2, different densities of foam = different sound absorption characteristics with respect to frequencies, specification p. 8 lines 5-18), and European Patent Application 0 870 631 A2 (embodiments of Figures 3 and 4, different densities of foam = different sound absorption characteristics with respect to frequencies, specification p. 8 lines 5-18), and therefore cannot serve as a common special technical feature.

5. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adrienne C. Johnstone whose telephone number is (571) 272-1218. The examiner can normally be reached on Monday-Friday, 1:00PM-5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Adrienne C. Johnstone
Primary Examiner
Art Unit 1791

Adrienne Johnstone

/Adrienne C. Johnstone/

August 17, 2009